

RCRA, SUPERFUND & EPCRA CALL CENTER MONTHLY REPORT  
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**1. Applicability of LDR to Bevill Mixtures**

*A mineral processing facility generates process wastewater from the production of phosphoric acid that is excluded from the definition of solid waste pursuant to the Bevill exclusion in 40 CFR Section 261.4(b)(7). The same facility also generates a spent solvent that meets the F003 listing in Section 261.31. The facility subsequently mixes the F003 waste with the excluded mineral processing waste to produce a resultant mixture that no longer exhibits the characteristic of ignitability. Is the resultant waste mixture subject to the land disposal restrictions (LDR) requirements in Part 268? If so, what underlying hazardous constituents (UHCs) are subject to treatment?*

The resultant waste mixture is subject to the requirements in Part 268 even though it is no longer hazardous at the point of land disposal. A mixture of a Bevill waste and a characteristic hazardous waste (or a waste listed solely because it exhibits a hazardous characteristic) is considered hazardous if it exhibits a characteristic of the non-excluded waste, but not if it exhibits a characteristic imparted to it by the Bevill waste (Sections 261.3(a)(2)(i) and 261.3(a)(2)(iii)). However, even if the F003 waste is rendered nonhazardous when mixed with the Bevill waste, the waste still remains subject to LDR requirements because LDR attaches to the F003 waste at the point of generation. The waste mixture must be treated for any characteristic(s) and UHCs attributed to the non-excluded portion. The waste mixture does not have to be treated for any UHCs uniquely contributed by the Bevill portion. Thus, Bevill status of one waste cannot be used to immunize requirements applicable to prohibited wastes. In addition, the facility must comply with applicable LDR notification and certification requirements in Section 268.7.

The act of mixing a hazardous waste with a Bevill-exempt waste to render it nonhazardous meets the definition of treatment in Section 260.10. As a result, the act of mixing a hazardous waste with a Bevill waste or other solid waste may require a Subtitle C permit (63 FR 28556, 28595-97; May 26, 1998). Furthermore, such mixing may be a form of impermissible dilution.